



Railtown 1897 State Historic Park

Qualifications for Locomotive Engineers 49 CFR Part 240



July 2010

Introduction

The Federal Railroad Administration requires that locomotive engineers be given a skill performance test prior to certification or recertification and establishes certain criteria for the conduct of that test. Railroads are given discretion concerning the manner in which to administer the required testing. The FRA has afforded railroads this discretion to allow individual railroad companies latitude to tailor their testing procedures to the specific operational realities. Since 1991, the FRA requires that each railroad develop a written plan for certification, testing, and monitoring of all Certified Locomotive Engineers.

This plan, commonly called “Part 240”, specifies how these rules are applied at Railtown. The plan can be broken down into several basic components;

- Initial certification of the DSLE
- Initial certification of a new engineer
- Re-certification of an engineer (required every 36 months)
- Knowledge testing (written or verbal exam) for new and recertified engineers
- Skills testing (demonstration of skills, at the controls) for new and recertified engineers
- Performance testing (unannounced, annual “check ride”)

The skills test (240.127) is intended to be a more thorough observational test than what is required in a monitoring “check” ride (240.129). Because it is a more thorough test, the performance skills test is only required every three years (prior to certification and recertification), while the check ride is required at least once each year.

The Part 240 plan may sometimes be confused with the Part 217 plan, which is similar, but applies to all covered service members of the train crew.

The Railtown 1897 State Historic Park Railroad, Part 240 plan was approved by the FRA for implementation on July 13, 2010, and is in effect until super-ceded.

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Section 1: General Information and Elections (reference 49 CFR 240.101)

General Information

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Railroad operates in following state and FRA region

California FRA Region 7

Reporting Station for Engineers

Jamestown, CA

Route Mileage operated

Yard 4.5
Mainline 49 (currently operating only 3 miles)
Operates on tracks of other carrier- SERA
Number of Railroad Crossings at Grade 38
Maximum Railing Grade 2.8%
Maximum Train Speed 15 MPH
Average Train Length 3 Cars
No Signal

Operating Authorities in effect:

Rule 93, Yard Limits YES
Train Orders YES
Track Warrant YES
Other: General Orders of SERA
Timetable SERA

No Hazardous Materials Movement

Number of Engineers (including company officers) and total experience:

10 Total number of engineers

Experience:

Less than ten years= 2

More than ten years= 8

Number of Locomotives

Road Haul= 4

Switching= 2

Total= 6

Elections

The Railtown 1897 State Historic Park Railroad elects to certify previously non-certified candidates.

The Railtown 1897 State Historic Park Railroad will issue certifications for:

- Train Service Engineers
- Student Engineers



Section 2: Administrative Selection of Supervisor of Locomotive Engineers (DSLE) (reference 49 CFR 240.105)

The Railtown 1897 State Historic Park Railroad will select candidates for the position of DSLE who have the ability to test and evaluate the knowledge of skills of locomotive engineers and can prescribe appropriate remedial action for any deficiency detected. To qualify, the candidate must be a certified Locomotive Engineer, and must successfully complete the examination and skills testing outlined in Section 4 (as per 49 CFR Part 240:127). It is preferable that the candidate have supervisory experience.

Section 3: Training Persons Previously Certified as Locomotive Engineers (Continuing Education) (reference 49 CFR 240.123 (b))

The Railtown 1897 State Historic Park Railroad will provide continuing education for certifying Locomotive Engineers to assure that all of our engineers maintain knowledge of the subjects listed in this program. Re-certification for all Certified Locomotive Engineers of the Railtown 1897 State Historic Park Railroad will occur on a 36 month interval. The ongoing training, testing and monitoring of certified locomotive engineers will occur throughout the 36 month certification period and incorporate classroom training, on-site training, online training, self-study, and annual rules testing. All training will be documented in the employee's personnel file.

Posted instructions including General Orders, Special Notices and Special Instructions are issued in response to proposed, new or revised rules and operating practices. Engineers are required to review same prior to commencing each tour of duty.

Instructional manuals including operating rules, safety rules, timetables, etc, are provided for employees use, and are available at the park office in hard-copy format, or online at [http://railtown.team.parks.ca.gov/volunteers/pages/Engine Crew Documents.aspx](http://railtown.team.parks.ca.gov/volunteers/pages/Engine+Crew+Documents.aspx). Engineers are required to have the most recent copies of these manuals available for immediate reference while on duty. Employees not understanding revisions of these manuals or special instructions must notify their supervisor prior to operating the locomotive.

Training Program

Certified Locomotive Engineers are required to attend formal training sessions, consisting of at least 8 hours, not less than every 24 months, and passing a proctored written exam not less than every 12 months. Upon review, the qualifications review board (QRB) may elect to accept a candidate's current training by a Class 1, Class 2 or Class 3 railroad or other credible organization in lieu of this requirement.

Classroom training will include the following topics:

- Personal Safety
 - Proper attire including personal safety devices
 - Mounting and dismounting equipment
 - Crossing tracks and yards

- Operating switches
- Coupling equipment
- Railroad Operating Rules
 - Track warrant control
 - Yard limit rules & regulations
 - Radio rule compliance
 - Hazardous material handling and emergency response (as applicable)
 - Signal Compliance
 - Fixed signals
 - Hand signals
 - Radio transmitted signals
- Federal Safety Rules
 - Yard limits Rule
 - Hours of Service Rule
 - Locomotive Inspection
 - Radio Rules
 - Blue flag Rule
 - Power Brake Rules
 - Haz Mat Rules
 - CFR 240 Rules

On-site training will include the following topics: (due to the small staff size, on-site training may consist of classroom, online, self-study and/or personal instruction. All training will be documented in the employee's file)

- Train handling Practices
 - Proper throttle modulation
 - Proper brake application
 - Use of automatic train brake
 - Use of dynamic brake
 - Use of independent brake
 - Proper starting & stopping procedures
 - Knowledge of physical characteristics
- Proper air brake testing procedures/Mechanical Condition of Equipment
 - Pre-trip inspection of locomotive
 - Trouble shooting
 - Proper operating pressures of air brake system
 - Proper Air Brake Testing Procedures

Operating rules classes will be conducted on an annual schedule and in a classroom environment with the participation of certified engineers in open discussion. All topics required by 49 CFR 240.123 (b) will be covered at these classes and will highlight new and/or revised rules and operating practices. A written examination of not less than 25 questions will



be given upon completion of classes. Certified locomotive engineers participating in the class are required to achieve a passing score of 85 percent.

SECTION 4: Testing and Evaluating Persons Previously Certified (recertification)
(reference 49 CFR 240.127 and 49 CFR 240.125) **Every 36 months**

Knowledge Testing

Engineers will be required to participate in written examinations of at least 50 questions and to obtain a passing score of 85%. These examinations will be conducted by a DSLE or a designated official, and will include the following subject matter.

- Personal safety procedures (emphasizing Company Safety Rules).
- Operating practices (with emphasis on recent or proposed operational changes ie. Changes in Track Warrant Control Program, Yard Limits, hazardous Material Rules, etc).
- Equipment inspection practices (with emphasis on added or new devices and /or appliances and inspection or trouble areas).
- Train handling practices including physical characteristics (with emphasis on company train control practices and any railroad plant changes).
- Compliance of relevant Federal Safety Rules (with emphasis on new or revised rules).

Skill Testing (at the controls)

Engineers will be required to participate in train handling skills performance administrated by a DSLE. The criteria will be as recommended in appendix E of 49 CFR 240.

The train handling performance examination will be administered so that skill performance can be monitored and corrective action, via additional training, be made to improve an engineer's performance.

The operating skills performance test will be in the form of tasks rated on a pass/fail system, and conducted while a train service engineer is operating a locomotive in the most demanding service the engineer would be expected to perform. Certain tasks are "must know" or weighted tasks related to the six cardinal rules listed in 49 CFR 240.117(e). Failure of a weighted task results in failure regardless of overall score on the test. Successful completion requires an overall passing score of 85 points. Each engineer begins with 100 points. Applicable assigned point values on the check ride sheet will be deducted for items failed. (See Appendix A)

Engineers failing a skills test will not be allowed to operate a locomotive except under the direct and immediate supervision of a certified engineer. The engineer will be notified of the reason(s) for the failure at the completion of the test. A second test will be given within seven (7) days of the first test or at the completion of any prescribed remedial training. If a second test failure occurs, the engineer will be given a third test within seven (7) days of the failure or at the completion of any prescribed remedial training. If the engineer fails the third test, the

engineer will be denied certification. The engineer will be notified of the reasons for the denial and will be provided an opportunity to explain or rebut those reasons in writing. The engineer will then be given a written explanation of the basis for denying certification. This document will be mailed to the engineer within 10 days after the denial decision was made and contain the date of the decision.

Vision and Hearing Acuity Testing (reference: 49 CFR 240.121)

The Medical Examiner of the Railtown 1897 State Historic Park Railroad will be responsible for the administration of required vision and hearing acuity testing prior to the employee's re-certification date. Notification of results will be made by means of vision/hearing approval form.

For those employees whose hearing or vision acuity does not meet the standards required by 49 CFR 240.12, a detailed written description and all constraints place on the Locomotive Engineer, will be submitted to the Medical Examiner. The Medical Examiner will then make a determination as to the ability of said employee to perform safe service with their physical deficiencies. If the Medical Examiner determines that the employee can operate a locomotive safely, that fact will be noted with any restrictions on vision/hearing from and the engineer's certificate of license.

Section 5: Training, Testing and Evaluating Persons Not Previously Certified At time of promotion to Student Engineer-(reference 49 CFR 240.123)

Initial examinations for persons not previously certified, will include:

- Hearing and vision acuity testing (reference 49 CFR 240.121)
- Discipline record, attendance record and other pertinent data from employee's personnel file as well as his/her driving record will be reviewed to determine safe working habits.
- Review of previous DOT covered service employment records

Knowledge Testing

A comprehensive program of classroom and on-site training will be provided for selected candidates, and tailored to meet individual needs, taking into consideration prior experience, aptitude and demonstrated proficiency. Training and examination records for each employee will be reviewed by the Qualifications Review Board prior to advancement to Qualified Locomotive Engineer, and at least quarterly, thereafter.

Prior to consideration for Certified Locomotive Engineer, the candidate will participate in on-the-job training with a certified locomotive engineer (designated as a trainer) handling trains for not less than 80 hours actual throttle time. It is anticipated that most student engineers will require substantially more training time.

Candidates will demonstrate understanding and proficiency in the following areas:

- Machinery
- Air Brakes
- Train Handling
- Operating rules (including signals)
- Hazardous Material/Emergency Response
- Federal Regulations
- All aspects of railroad operations and equipment, including a familiarization trip in the cab of a locomotive.
- Company's safety rules for employees and operations
- Overview of applicable Federal and State regulations
- Rules and responsibilities of individual train crew and ground employees

Skill Testing (at the controls)

Written examination may be conducted periodically during each segment of instruction. The successful completion of each segment does not eliminate the necessity of a final test.

Applicant must participate in final written examination and are required to obtain a passing score of 85%, covering, but not limited to, the following criteria:

- Personal Safety Practices
 - proper attire including personal safety devices
 - Mounting and dismounting equipment
 - Crossing tracks and yards
 - Operating switches.
- Operating Rules and Practices
 - Track Authority.
 - Track warrant controls
 - Yard limits
- Signal Compliance
 - Fixed signals
 - Hand signals
 - Radio Transmitted signals
- Radio rules compliance
- Hazardous material handling and emergency response
- Mechanical Condition of Equipment
 - Pre-trip inspection of locomotive
 - Trouble shooting
 - Proper operating pressures of air brake system
 - Proper air brake testing procedures
- Train Handling Practices
 - Proper throttle modulation
 - Proper brake application

- Use of automatic train
 - Use of dynamic brake
 - Proper starting and stopping procedure
- Relevant Federal Safety Rules
 - Yard Limit Rule
 - Hours of Service Act
 - Locomotive Inspection
 - Blue Flag Rule
 - Power Brake Rule

Candidates participate in a final performance skills examination on a pass/fail basis, of not less than 4 hours, while operating a locomotive in actual train service under the supervision of the DSLE. Certain tasks are “must know” or weighted tasks related to the six cardinal rules listed in 49 CFR 240.117(e). Failure of a weighted task results in failure regardless of overall score on the test. Successful completion requires an overall passing score of 85 points. A score or check ride sheet will be used to grade the test. Each engineer begins with 100 points. Applicable assigned point values on the check ride sheet will be deducted for items failed. (See Appendix A)

Candidates failing the skills test will be notified of the reason(s) for the failure at the completion of the test. A second test will be given within seven (7) days of the first test or at the completion of any prescribed remedial training. If a second test failure occurs, the engineer will be given a third test within seven (7) days of the failure or at the completion of any prescribed remedial training. If the engineer fails the third test, the engineer will be denied certification.

The candidate will be notified of the reasons for the denial and will be provided an opportunity to explain or rebut those reasons in writing. The engineer will then be given a written explanation of the basis for denying certification. This document will be mailed to the engineer within 10 days after the denial decision was made and contain the date of the decision.

Successful completion of knowledge and skills testing, and final approval by the QRB, will allow for the issuance of a certificate and promotion of candidate to the position of Certified Locomotive Engineer, qualified to operate over territory of the Railtown 1897 State Historic Park Railroad.

Section 6: Monitoring of Operational Performance of Certified Locomotive Engineers

“Annual Check Ride” (reference 49 CFR 240.129)

A DSLE will monitor each locomotive engineer, not less than once each year, under actual locomotive and train handling conditions. (note: Railtown does not make use of locomotive event recorders, or simulators, and therefore all evaluations will be conducted by qualified staff). The response actions of the engineer will be recorded on a check list of performance factors. Performance monitoring will:

- be unannounced
- comprise situations not normally experienced in a normal work period, (ie; fusees or torpedoes on tracks, signal indication, change, etc)
- be designed so that each engineer shall be annually monitored by a DSLE (who does not need to be qualified on the physical characteristics of the territory over which the operational performance monitoring will be conducted)
- ensure the locomotive engineer is accompanied by the DSLE for a reasonable length of time
- be designed so that the locomotive engineer being monitored is at the controls of the type of train normally operated on the railroad

The locomotive engineer will have his or her certificate (or supplement) signed and dated once each calendar year to signify completion of the annual skills performance monitoring. Deficiencies noted during a monitoring ride will be discussed with the engineer and if warranted, additional remedial training will be provided.

Engineers will be notified upon failure of an unannounced operating rule efficiency test. The specific rule relating to the failure will be reviewed with the engineer by the supervisor(s) conducting the test. Depending upon the supervisor's evaluation, additional remedial training may be provided.

Section 7: Procedures for Administration of the Engineer Certification Program

Qualifications Review Board

The Qualifications Review Board (QRB) is comprised of the DSLE, Chief Mechanical Officer, and the Park Superintendent. The QRB will meet quarterly, and as needed, to review ongoing training, testing, performance and promotions of the engine crew. The QRB will also ensure compliance with this plan.

Program Administrator

The Locomotive Engineer Certification Program will be administrated by the Program Administrator, who will be responsible for maintaining appropriate records for each certified and student locomotive engineer. The Program Administrator does not have to be a certified locomotive engineer or a DSLE.

Copies of a Locomotive Engineer's driving record, vision and hearing acuity test result forms, Release and Documentation of Previous DOT Employment form (reference Railtown's part 219 plan), written examination results and performance monitoring results will be maintained on file by the railroad, as well other pertinent information.

Driving Records



Locomotive engineers will be responsible for providing driving records to the Program Administrator, who will request the information from locomotive engineers not later than six weeks prior to re-certification and, where applicable, provide appropriate request forms. Requests will be made to the issuing state and the National Drivers Register (NDR).

Employees who have not been issued a drivers license will be required to apply for driving records from the state in which they reside and the NDR must produce a document indication that there is no record of a license being issued (this document is sometimes referred to as a "no record " or "no file" check)

Joint Operations (refer to 49 CFR 240.229)

When the Railtown 1897 State Historic Park Railroad is a using railroad it will provide a list of its certified Locomotive Engineers qualified to operate over trackage of another railroad for which it has operating rights, as requested.

Issuance of Certificates

The DSLE will issue certificates to all qualified locomotive engineers. Student Locomotive Engineers will receive a student certificate after review of pertinent medical data and driver's record and will maintain same until promotion, dismissal from training program or disqualification.

Procedures for Issuance of Locomotive Certificate

The DSLE will review all information available to determine if a locomotive engineer is to be certified or re-certified. If the locomotive engineer has successfully completed all test and other requirements he shall be issued a certificate effective for not longer than 36 months and signed by the DSLE.

If certification or re-recertification is to be withheld from an employee, that information shall be made known to the employee in writing, within 10 days, detailing the criteria found to prevent his/her from obtaining/retaining certification and procedures he/she may follow to gain certification.

Temporary Certificates

It is within the authority of the DSLE to issue a temporary certificate, providing the DSLE can verify that the employee has completed all necessary requirements for certification. Temporary Certificates may be issued in cases where the permanent certificate is being physically processed, and should be replaced as soon as feasible.

Replacement of Certificates

In the event a certificate is lost during a tour of duty and a DSLE is not available to issue a replacement certificate the locomotive engineer will be required to inform the State Park



Superintendent of the loss, and the locomotive engineer will be allowed to complete his tour of duty. A replacement certificate must be obtained by the locomotive engineer prior to being allowed to return to work.

Replacement Certificates will be available during normal business hours 9:00 am until 5:00 pm Sunday through Saturday at 5th and Reservoir in Jamestown, CA and at such other times when a DSLE is available.

Revocation of Certificate

The Railtown 1897 State Historic Park Railroad will conduct Certification Revocation Hearings and Company Disciplinary Hearings concurrently. Said Hearings(s) will be conducted as required by 49 CFR 240.307.

Skills Test/Check Ride Form

Date: _____ Engineer's Name: _____ DSLE _____

Locomotive _____ Train Consist: _____

Total Time Of Evaluation: (hours and minutes): _____ Total Miles Traveled: _____

Type: (annual checkride) _____ (initial certification) _____ Territory traveled _____

Total Score _____ Pass/Fail _____ () = value each _____

Did Engineer Follow The Acceptable Procedures?

Please check the appropriate box, explaining all failures on the back of this form.

<p>1. Light locomotive operation</p> <p style="text-align: right;">YES NO N/A</p> <p>A. Brake Tests (1) [] [] []</p> <p>B. Coupling Speed (1) [] [] []</p> <p>C. Changing ends (1) [] [] [] <u>3</u></p> <p>2. Automatic Brake Ops</p> <p>A. Brake Test (2) [] [] []</p> <p>B. Total Reduction (2) [] [] []</p> <p>C. Release Procedure (2) [] [] []</p> <p>D. Independent Release (2) [] [] [] <u>8</u></p> <p>3. Dynamic Brake Operation</p> <p>A. Time Delay (1) [] [] []</p> <p>B. Application rate (1) [] [] []</p> <p>C. Release Rate (1) [] [] [] <u>3</u></p> <p>4. Independent Brake</p> <p>A. Application (1) [] [] []</p> <p>B. Release (1) [] [] [] <u>2</u></p> <p>5. Monitors</p> <p>A. Train Profile (1) [] [] []</p> <p>B. Air Gauges (1) [] [] [] <u>2</u></p> <p>6. Reaction To</p> <p>A. Locomotive Wheel Slip/slide (1) [] [] []</p> <p>B. Dynamic Brake Overload (1) [] [] []</p> <p>C. Alarm Lights/Bells (1) [] [] [] <u>3</u></p> <p>7. Distributed Power</p> <p>A. Set Up (2) [] [] []</p> <p>B. Operation (2) [] [] []</p> <p>C. Knockdown (2) [] [] [] <u>6</u></p> <p>8. Daily Inspection Card Signed (2) [] [] [] <u>2</u></p>	<p>9.</p> <p>10.</p> <p>11.</p>	<p>Locomotive Management</p> <p style="text-align: right;">YES NO N/A</p> <p>A. Locomotive Inspection (1) [] [] []</p> <p>B. Engine Start-Up (1) [] [] []</p> <p>C. Sand (1) [] [] []</p> <p>D. Short Time Rating (1) [] [] []</p> <p>E. Protective Devices (1) [] [] []</p> <p>F. Securing Unattended Locomotives (1) [] [] [] <u>6</u></p> <p>Operating Rules</p> <p>A. Use of Bell (1) [] [] []</p> <p>B. Use of horn (1) [] [] []</p> <p>C. Use of Headlight (1) [] [] []</p> <p>D. Use of Radio (1) [] [] []</p> <p>E. Signal Compliance (5) [] [] []</p> <p>F. Signal Communication (2) [] [] []</p> <p>G. Knowledge of Special Instructions (5) [] [] []</p> <p>H. Knowledge of Operating Rules (5) [] [] []</p> <p>I. Knowledge of Safety Rules (4) [] [] []</p> <p>J. Possession of Required Publications (5) [] [] [] <u>30</u></p> <p>Train Handling</p> <p>A. Starting (1) [] [] []</p> <p>B. Acceleration (2) [] [] []</p> <p>C. Deceleration (3) [] [] []</p> <p>D. Cresting Grade (2) [] [] []</p> <p>E. Power Braking (1) [] [] []</p> <p>F. Familiarity With Terrain (5) [] [] []</p> <p>G. Judgment - Location Of Train (6) [] [] []</p> <p>H. Plans Movements Ahead (3) [] [] []</p> <p>I. Properly Controls Slack.(2) (2) [] [] []</p> <p>J. Procedures for Set-Off And Pick-Ups (1) [] [] []</p> <p>K. Speed Control (3) [] [] []</p> <p>L. Judgment In Stopping (2) [] [] []</p> <p>M. Yarded Train-control in-train forces (1) [] [] []</p> <p>N. Detaching from train (1) [] [] []</p> <p>O. Undesired Emergency (1) [] [] []</p> <p>P. Proper Coupling Speed (1) [] [] [] <u>35</u></p>
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Explanation of Failures	Remedial action taken or scheduled / Comments

[illegible]

Objective criteria to be considered for skills testing:

- Does the employee have the necessary books (Operating Rules, Safety Rules, Timetable, etc.)?
- Are predeparture inspections properly conducted (Radio, Air Brake Tests, Locomotive, etc.)?
- Does the employee comply with applicable safety rules?
- Does the employee read the bulletins, general orders, etc.?

Enroute, does the employee:

- Comply with applicable Federal Rules?
- Monitor gauges?
- Properly use the horn, whistle, headlight?
- Couple to cars at a safe speed?
- Properly control in train slack and buff forces?
- Properly use the train braking systems?
- Comply with speed restrictions?
- Display familiarity with the physical characteristics?
- Respond properly to unusual conditions?

At the conclusion of the trip, does the employee:

- Apply a hand brake to the locomotives?
- Properly report locomotive defects?



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Revised as of October 1, 2003

TITLE 49--TRANSPORTATION

CHAPTER II--FEDERAL RAILROAD ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

PART 240---QUALIFICATION AND CERTIFICATION OF LOCOMOTIVE ENGINEERS

Subpart B--Component Elements of the Certification Process

Sec. 240.117 Criteria for consideration of operating rules compliance data.

(a) Each railroad's program shall include criteria and procedures for implementing this section.

(b) A person who has demonstrated a failure to comply, as described in paragraph (e) of this section, with railroad rules and practices for the safe operation of trains shall not be currently certified as a locomotive engineer.

(c)(1) A certified engineer who has demonstrated a failure to comply, as described in paragraph (e) of this section, with railroad rules and practices for the safe operation of trains shall have his or her certification revoked.

(2) A Designated Supervisor of Locomotive Engineers, a certified locomotive engineer pilot or an instructor engineer who is monitoring, piloting or instructing a locomotive engineer and fails to take appropriate action to prevent a violation of paragraph (e) of this section, shall have his or her certification revoked. Appropriate action does not mean that a supervisor, pilot or instructor must prevent a violation from occurring at all costs; the duty may be met by warning an engineer of a potential or foreseeable violation. A Designated Supervisor of Locomotive Engineers will not be held culpable under this section when this monitoring event is conducted as part of the railroad's operational compliance tests as defined in Secs. 217.9 and 240.303 of this chapter.

(3) A person who is a certified locomotive engineer but is called by a railroad to perform the duty of a train crew member other than that of locomotive engineer, and is performing such other duty, shall not have his or her certification revoked based on actions taken or not taken while performing that duty.

(d) Limitations on consideration of prior operating rule compliance data. Except as provided for in paragraph (i) of this section, in determining whether a person may be or remain certified as a locomotive engineer, a railroad shall consider as operating rule compliance data only conduct described in paragraphs (e)(1) through (e)(5) of this section that occurred within a period of 36 consecutive months prior to the determination. A review of an existing certification shall be initiated promptly upon the occurrence and documentation of any conduct described in this section.

(e) A railroad shall only consider violations of its operating rules and practices that involve:

(1) Failure to control a locomotive or train in accordance with a signal indication, excluding a hand or a radio signal indication or a switch, that requires a complete stop before passing it;

(2) Failure to adhere to limitations concerning train speed when the speed at which the train was operated exceeds the maximum authorized limit by at least 10 miles per hour. Where restricted speed is in effect, railroads shall consider only those violations of the conditional clause of restricted speed rules (i.e., the clause that requires stopping within one half of the locomotive engineer's range of vision), or the operational equivalent thereof, which cause reportable accidents or incidents under part 225 of this chapter, except for accidents and incidents that are classified as ``covered data'' under Sec. 225.5 of this chapter (i.e., employee injury/illness cases reportable exclusively because a physician or other licensed health care professional either made a one-time topical application of a prescription-strength medication to the employee's injury or made a written recommendation that the employee: Take one or more days away from work when the employee instead reports to work (or would have reported had he or she been scheduled) and takes no days away from work in connection with the injury or illness; work restricted duty for one or more days when the employee instead works unrestricted (or would have worked unrestricted had he or she been scheduled) and takes no other days of restricted work activity in connection with the injury or illness; or take over-the-counter medication at a dosage equal to or greater than the minimum prescription strength, whether or not the employee actually takes the medication, as instances of failure to adhere to this section;

(3) Failure to adhere to procedures for the safe use of train or engine brakes when the procedures are required for compliance with the initial terminal, intermediate terminal, or transfer train and yard test provisions of 49 CFR part 232 or when the procedures are required for compliance with the class 1, class 1A, class II, or running brake test provisions of 49 CFR part 238;

(4) Occupying main track or a segment of main track without proper authority or permission;

(5) Failure to comply with prohibitions against tampering with locomotive mounted safety devices, or knowingly operating or permitting to be operated a train with an unauthorized disabled safety device in the controlling locomotive. (See 49 CFR part 218, subpart D and Appendix C to part 218);

(6) Incidents of noncompliance with Sec. 219.101 of this chapter; however such incidents shall be considered as a violation only for the purposes of paragraphs (g)(2) and (3) of this section;

(f)(1) If in any single incident the person's conduct contravened more than one operating rule or practice, that event shall be treated as a single violation for the purposes of this section.

(2) A violation of one or more operating rules or practices described in paragraph (e)(1) through (e)(5) of this section that occurs during a properly conducted operational compliance test subject to the provisions of this chapter shall be counted in determining the periods of ineligibility described in paragraph (g) of this section.

(3) An operational test that is not conducted in compliance with this part, a railroad's operating rules, or a railroad's program under Sec. 217.9 of this chapter, will not be considered a legitimate test of operational skill or knowledge, and will not be considered for certification, recertification or revocation purposes.

(g) A period of ineligibility described in this paragraph shall:

(1) Begin, for a person not currently certified, on the date of the railroad's written determination that the most recent incident has occurred; or

(2) Begin, for a person currently certified, on the date of the railroad's notification to the person that recertification has been denied or certification has been revoked; and

(3) Be determined according to the following standards:

(i) In the case of a single incident involving violation of one or more of the operating rules or practices described in paragraphs (e)(1) through (e)(5) of this

section, the person shall have his or her certificate revoked for a period of one month.

(ii) In the case of two separate incidents involving a violation of one or more of the operating rules or practices described in paragraphs (e)(1) through (e)(5) of this section, that occurred within 24 months of each other, the person shall have his or her certificate revoked for a period of six months.

(iii) In the case of three separate incidents involving violations of one or more of the operating rules or practices, described in paragraphs (e)(1) through (e)(6) of this section, that occurred within 36 months of each other, the person shall have his or her certificate revoked for a period of one year.

(iv) In the case of four separate incidents involving violations of one or more of the operating rules or practices, described in paragraphs (e)(1) through (e)(6) of this section, that occurred within 36 months of each other, the person shall have his or her certificate revoked for a period of three years.

(v) Where, based on the occurrence of violations described in paragraph (e)(6) of this section, different periods of ineligibility may result under the provisions of this section and Sec. 240.119, the longest period of revocation shall control.

(4) Be reduced to the shorter periods of ineligibility imposed by paragraphs (g)(1) through (3) of this section as amended, and effective January 7, 2000 if the incident:

(i) Occurred prior to January 7, 2000; and

(ii) Involved violations described in paragraphs (e)(1) through (e)(5) of this section; and

(iii) Did not occur within 60 months of a prior violation as described in paragraph (e)(6) of this section.

(h) Future eligibility to hold certificate. A person whose certification has been denied or revoked shall be eligible for grant or reinstatement of the certificate prior to the expiration of the initial period of revocation only if:

(1) The denial or revocation of certification in accordance with the provisions of paragraph (g)(3) of this section is for a period of one year or less;

(2) Certification was denied or revoked for reasons other than noncompliance with Sec. 219.101 of this chapter;

(3) The person has been evaluated by a Designated Supervisor of Locomotive Engineers and determined to have received adequate remedial training;

(4) The person has successfully completed any mandatory program of training or retraining, if that was determined to be necessary by the railroad prior to return to service; and

(5) At least one half the pertinent period of ineligibility specified in paragraph (g)(3) of this section has elapsed.

(i) In no event shall incidents that meet the criteria of paragraphs (i)(1) through (4) of this section be considered as prior incidents for the purposes of paragraph (g)(3) of this section even though such incidents could have been or were validly determined to be violations at the time they occurred. Incidents that shall not be considered under paragraph (g)(3) of this section are those that:

(1) Occurred prior to May 10, 1993;

(2) Involved violations of one or more of the following operating rules or practices:

(i) Failure to control a locomotive or train in accordance with a signal indication;

(ii) Failure to adhere to limitations concerning train speed;

(iii) Failure to adhere to procedures for the safe use of train or engine brakes; or

(iv) Entering track segment without proper authority;

(3) Were or could have been found to be violations under this section contained in the 49 CFR, parts 200 to 399, edition revised as of October 1, 1992; and

(4) Would not be a violation of paragraph (e) of this section.

(j) In no event shall incidents that meet the criteria of paragraphs(j)(1) through (2) of this section be considered as prior incidents for the purposes of paragraph (g)(3) of this section even though such incidents could have been or were validly determined to be violations at the time they occurred. Incidents that shall not be considered under paragraph (g)(3) of this section are those that:

(1) Occurred prior to January 7, 2000;

(2) Involved violations of one or more of the following operating rules or practices:

(i) Failure to control a locomotive or train in accordance with a signal indication that requires a complete stop before passing it;

(ii) Failure to adhere to limitations concerning train speed when the speed at which the train was operated exceeds the maximum authorized limit by at least 10 miles per hour or by more than one half of the authorized speed, whichever is less;

(3) Were or could have been found to be violations under this section contained in the 49 CFR, parts 200 to 399, edition revised as of October 1, 1999; and

(4) Would not be a violation of paragraph (e) of this section.

[64 FR 60990, Nov. 8, 1999, as amended at 68 FR 10139, Mar. 3, 2003]